

**Zoning Board of Appeals Minutes  
January 28, 2020**

| <b>ZBA MEMBERS</b>  | <b>ZBA MEMBERS<br/>ABSENT</b> | <b>STAFF PRESENT</b>  |
|---|-------------------------------|---|
| Jim Racheff- Chair<br>Kenneth Ying<br>Lawrence Aronow<br>Shuan Butcher<br>Bob Sisson-Alternate Member | Steve West                    | Gabrielle Collard – Division Manager of Current Planning<br>Rachel Depo—Assistant City Attorney<br>Stephen Davis—Assistant City Attorney<br>Jessica Murphy – Administrative Assistant |

**I. ANNOUNCEMENTS:**

- The City of Frederick Planning Commission is holding special workshops over the next several weeks to continue the drafting of the 2020 Comprehensive Plan. The plan, which is being informed by public input from two questionnaires and stakeholder and community meetings, guides how The City of Frederick will develop. The purpose of the workshops is to discuss the draft plan and accept public comment. All meetings will be held at The City of Frederick Municipal Office Annex (Conference Room C) at 140 West Patrick Street, Frederick MD 21701.

**Planning Commission Special Workshop 2**

Date: Saturday, February 8, 2020

Time: 1:00 P.M. – 5:00 P.M.

Agenda:

- Transportation
- Municipal Growth
- Environmental Sustainability
- Historic Preservation

**Planning Commission Special Workshop 3**

Date: Saturday, February 15, 2020

Time: 1:00 P.M. – 5:00 P.M.

Agenda:

- Community Character and Urban Design
- Housing
- Economic Development
- Recreation
- Fiscal
- Implementation

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**II. GENERAL PUBLIC COMMENT:**

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**III. APPROVAL OF MINUTES:**

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Approval of the **December 17, 2019** Zoning Board of Appeals Meeting Minutes as published:

**MOTION:** Mr. Butcher moved for approval of the November 26, 2019 hearing minutes.

**SECOND:** Mr. Sisson

**VOTE:** 4-0

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**IV. PUBLIC HEARING-SWEARING IN:**

*“Do you solemnly swear or affirm that the responses given, and statements made in this hearing before the Zoning Board of Appeals will be the whole truth and nothing but the truth.” If so, answer “I do”.*

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**V. CONTINUANCES: None**

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**VI. OLD BUSINESS: None**

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**VII. NEW BUSINESS:**

**A. ZBA19-1184V, Variance, 201 Spring Bank Avenue**

Sandy Grey of 203 Spring Bank had concerns about the footage of the deck, if a privacy barrier would be installed on the property and the offset of the deck to the alley way.

**MOTION:** Mr. Sisson moved for approval of the variance request for ZBA19-1184V, under the powers granted to the Board by Section 203 and 313 of the Land Management Code, finding that:

1. The requested variance is not contrary to the purpose and intent of the Code in that the setbacks are applied in order to ensure light, air, and access to properties and that the request will only allow for the construction of a second-story, open unenclosed deck on the rear of the lot, which will not adversely impact other properties in this respect.
2. That while the lot is part of a master planned community under which the Planning Commission exercised its authority to reduce the required rear setback, the curvature of the lot line at the intersection of Spring Bank Drive and Old Inn Alley creates a unique condition, under which the strict application of the required rear setback causes a peculiar or unusual practical difficulty to, or exception to, or undue hardship upon the Applicant.
3. That the variance is the minimum necessary to overcome the unique condition created by the curved property lines while allowing the builder to construct a reasonably sized deck.
4. The strict application of the regulations would deprive the builder, and ultimately the homeowner, reasonable use of the Property that are commonly enjoyed by other properties in the neighborhood in that a reasonably sized deck could not be constructed;
5. Granting the variance will not confer a special privilege on the Applicant that is generally denied by the LMC to other lands or structures in the same district and within the Mixed Use-District;
6. Granting the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare and is harmony with the general purpose and intent of the Code in that it will allow for an improvement that creates a sense of cohesion throughout the mixed-use community; and
7. The Applicant did not create or cause the circumstances that have necessitated the variance.

With the following Condition:

1. That a privacy barrier between the property and 203 Spring Bank Avenue cannot be constructed on the deck.

**SECOND:** Mr. Butcher

**VOTE:** 4-0

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**B. ZBA19-1272CU, Conditional Use, Stern Life Incorporated, 1640 Andover Lane**

**MOTION:** Mr. Butcher moved for approval of the conditional use request for a Nursing Home/Domiciliary Care/ Adult Living Facility at 1640 Andover Lane finding that:

1. The proposed use provides alternative living options for the elderly and is deemed a conditional use in the RS zoning district as such, is in harmony with both the City's Comprehensive Plan and Land Management Code, respectively.
2. Based on the information provided by the Applicant, there will be no increase in traffic to the site beyond that typically associated with a residential dwelling unit and as such, the proposed use will not generate any greater impact on the surrounding community than that which would be normally associated with a permitted use not requiring conditional use approval.
3. The Applicant proposes no expansions or architectural modifications to the exterior of the existing home and has testified that there will be no increase in traffic or noise, which will adversely affect the character of the community.
4. The Applicant will obtain all required State approvals and licenses for the assisted living use.
5. The Property is surrounded by other residential uses and is located within a residential setting on local roads and as such, the residents of the facility will be equally as protected from noise, traffic, and air pollution as the surrounding residential uses.
6. The Applicant has demonstrated that the minimum lot area that must be provided per the Code (1,600 sq. ft.) will be met with full adequacy based on the total square footage of the Property (6,454 sq. ft.) provided versus the number of beds being provided on site (a maximum of 4 beds).

With the following Conditions:

1. Any visitor or service vehicle to the site shall be required to park onsite.
2. Prior to issuance of a zoning certificate, the Applicant provides the City with documentation of the State approvals and licenses for the use.
3. In accordance with Section 312(g) of the LMC, Zoning Board of Appeals Decisions, a development approval by the Board expires two years after the date of approval unless the use is established, or a zoning certificate is issued and construction has begun in accordance with the terms of the decision.

**SECOND:** Mr. Aronow

**VOTE:** 4-0

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**VIII. BOARD BUSINESS: None**

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**IX. ITEMS ADDED TO AGENDA**

**Zoning Determinations Completed:**

- **ZBA19-1251ZD, 1644 Bowmans Farm Rd.**
- **ZBA19-1257ZD, 400 E. Church St.**
- **ZBA19-1271ZD, 2410 Monocacy Blvd.**
- **ZBA19-1279ZD, 341 Ballenger Center Dr.**
- **ZBA20-007ZD, 1507 Rosemont Ave.**
- **ZBA20-036ZD, 1040 W. Patrick St.**

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**X. ADJOURNMENT**

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**Meeting adjourned approximately at 8:10 p.m.**

Respectfully Submitted,  
Jessica Murphy  
Administrative Assistant